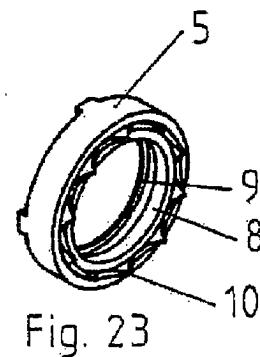


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REMARKS/ARGUMENTS

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

The Examiner has objected to the drawings as not disclosing the features of claim 28. It is respectfully submitted that claim 28 as written is supported by the drawings. For example, the plug in connection having a groove is shown by reference numeral 8, spring 9 as well as groove 8 are shown in Fig. 23. Mandrel 10 is also shown in FIG. 23. The catch seat is "specifically formed, in concrete terms, via a groove formed at a free end of implant part 2, 3, as described in the specification on the bottom of page 16. For example, FIG. 23 is shown below:



Therefore, it is respectfully submitted that since each of these features are originally shown, the drawings do not need to be amended.

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The Examiner has rejected claims 1-3, 5, 6, 8-10, 17-19, 21-27 and 29 under 35 U.S.C. 103(a) as being unpatentable over Paponneau in view of Yeh.

In addition the Examiner has rejected claims 12 ,and 13 under 35 U.S.C. 103(a) as being unpatentable over Paponneau in view of Yeh, Strnad, and Bucher.

Since claims 12 and 13 depend from claim 1, the patentability of claim 1 will be presented first.

Regarding claim 1, it is respectfully submitted that the Examiner has not addressed a fundamental difference between the present invention as claimed in claim 1 and the above cited references. For example, claim 1 requires:

b) a joining plate that can be releasably connected with a free end of at least one of said at least two implant parts in a substantially perpendicular alignment relative to said longitudinal axis of the implant, wherein the implant can be inserted between vertebrae of a spinal column as a substitute for disks, vertebrae or parts of vertebrae removed from a spinal column, wherein said joining plate is configured in a star shaped manner; and

wherein said joining plate has an opening formed in said joining plate for releasable attachment of said joining plate wherein said opening is configured to lie outside of a center of gravity of said joining plate wherein said joining plate further comprises a plurality of passage openings and a plurality of ridges disposed around said plurality of passage openings.

The Examiner admits that Paponneau lacks a significant number of features of claim 1. For example, the Examiner admits the following:

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Paponneau fails to disclose the device further comprising an implant body including a first implant part, a second implant part, and a threaded ring coupled to the second implant part, the device comprising an angle adjustment mechanism between the joining plate and the implant body, the plurality of passage openings extending to an outer edge of the joining plate, joining plate having a star shape, the opening of the joining plate being configured outside the center of gravity of the joining plate, one side of the joining plate being enlarged, the joining plate having a thickness corresponding to between 2% and 30% of the height of the implant body, the surface of the joining plate facing the vertebra having a convex shape, and the grooves of the plug-in connection being on the implant body.

In addition to the above passage, the Examiner fails to admit that Paponneau also fails to disclose that the joining plate has an opening "formed in" the joining plate for "releasable attachment" of the joining plate wherein the opening is formed outside of the "center of gravity". Therefore, the connection between the joining plate and the implant parts is also outside of the center of gravity of the joining plates. This feature is not shown in Paponneau, or in the other documents such as Yeh and Strnad. For example, even after combining the disclosures of *Paponneau*, *Yeh* and *Strnad* together, the examiner admits that this feature is not shown. For example, the Examiner states instead

"it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the opening of the joining plate outside of the center of gravity of the joining plate, since it has been held that rearranging of parts of an invention only requires routine skill in the art, and cited In re Japikse 86 U.S. P.Q. 70.

It is respectfully submitted that the present invention as claimed in claim 1 is not simply a rearrangement of parts but rather a part that is recited in claim 1 that is not present in any of the above cited documents.

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This is because none of the above recited documents disclose that (element numbers added) :

said joining plate has an 1) opening formed in said joining plate for 2) releasable attachment of said joining plate wherein said 3) opening is configured to lie outside of a center of gravity of said joining plate

These three elements which are incorporated into the single opening are not shown in the combination of the above references.

Therefore, it is respectfully submitted that claim 1 is patentable over the above identified references taken either singularly or in combination.

It is respectfully submitted that since claim 1 is patentable, dependent claims 12 and 13 are patentable as well.

The Examiner has rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over *Paponneau* in view of *Strnad*, and in view of *Doty*.

With regard to independent claim 28, this claim states that the joining plate is configured in a "star shaped manner".

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It is respectfully submitted that this feature is not shown in either *Paponneau* Strnad or Doty. Therefore, it is respectfully submitted that claim 28 is patentable over the combination of the above identified references taken either singly or in combination.

The Examiner states that the joining plate having a star shape would have been obvious matter of design choice to one skilled in the art at the time the invention was made. The Examiner also has stated that the Applicant has not disclosed any stated problem or anything more than a numerous shapes or configurations that any person skilled in the art would find obvious for providing a surface and adjoining plate in the shape of adjoining plate. The Applicant respectfully traverses this statement and this rejection. On page 7 of the amended Specification, second paragraph, it states:

The implant, structured as a modular system, can be made variable in shape wherein the joining plate is configured as a polygon, in a rounded manner, or, alternatively, in a star-shaped manner. The star-shaped configuration of the joining plate, in particular, is set so that a closed surface is not formed as a sharp separating plane between the vertebrae and the implant arranged below the joining plate. This creates the possibility that an osseous connection will form between the two vertebrae wherein an implant can grow into place particularly well, particularly if bone chips, bone cement, or the like is used in supportive manner.

As stated above, the particular shape, in particular, the star-shaped configuration in the joining plate, is formed such that creates a possibility that an osseous connection will form between the two vertebrae wherein an implant can grow into place particularly well, particularly if bone chips, bone cement, or similar elements are used in this

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supportive manner. It is clear from this explanation that the shape of the joining plate is particularly important in this matter, particularly in the form of a star shaped manner. Therefore, it is respectfully submitted that the Applicant has presented sufficient reason for the particular star-shaped configuration. Since the combination of *Poppnneau, Strnad* and *Doty* does not disclose this type of configuration, it is respectfully submitted that this feature is patentable over the publication to *Poponneau, Strnad and Doty*.

Regarding claim 29, claim 29 includes the statement:

wherein at least one of said plurality of passage openings extends to an outer edge of said joining plate wherein said joining plate is configured in a star-shaped manner for forming a sharp separating plane between a vertebrae and the implant for facilitating an osseous connection between the vertebrae and the implant.

The above cited references taken either alone or in combination do not contain the above feature. Therefore, it is respectfully submitted that claim 29 is patentable over the above cited references.

New claim 30 has also been added. Claim 30 is similar to claim 1 but it also states:

“wherein said opening forms a passage into at least one of said first implant part and said second implant part”. Support for new claim 39 is found in FIGS. 1, 3 and 6.

The above cited references do not contain this feature as well.

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In conclusion, it is respectfully submitted that independent claims 1, 28 and 29, and 30 as written are patentable over the above cited references taken either singly or in combination. In addition, it is respectfully submitted that dependent claims 2, 3, 5-6, 8-10, 12-15, 17-19, and 21-27 are patentable over the above cited references. No new matter has been added. Accordingly, early allowance of the remaining claims is respectfully requested.

Early allowance of the remaining claims is respectfully requested.

Respectfully Submitted,

/William Collard/
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Attorney for the Applicant

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